

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-80101-CR-CANNON(s)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,**

Defendants.

**GOVERNMENT’S RESPONSE TO DEFENDANT DONALD J. TRUMP’S
NOTICE OF SUPPLEMENTAL AUTHORITY**

The Government hereby responds under Local Rule 7.8 to defendant Trump’s submission of *Trump v. United States*, No. 23-939, 603 U.S. ___, 2024 WL 3237603 (July 1, 2024) as supplemental authority. The Government agrees to supplemental briefing on the immunity issue addressed in the Supreme Court’s opinion.

Trump’s notice also refers to Justice Thomas’s concurrence addressing the Special Counsel’s authority to prosecute. That single-Justice concurrence—addressing an issue that Trump did not raise (*See* Sup. Ct. Tr. 33-34), that the parties did not brief, and that was not relevant to the question presented to, or decided by, the Court—neither binds this Court nor provides a sound basis to deviate from the uniform conclusion of all courts to have considered the issue that the Attorney General is statutorily authorized to appoint a Special Counsel. And as the concurrence recognized, the Supreme Court found that the statutes on which the Government principally relies here—28 U.S.C. §§ 515 and 533—“support[ed] the appointment of the Special Prosecutor in

United States v. Nixon, 418 U.S. 683, 694 (1974).” *Trump*, 2024 WL 3237603, at *28 (Thomas, J., concurring); *see* Gov’t Opp., ECF No. 374, at 6-7. The same is true here.

Respectfully submitted,

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By: /s/ Jay I. Bratt
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July 12, 2024

CERTIFICATE OF SERVICE

I hereby certify that on July 12, 2024, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which in turn serves counsel of record via transmission of Notices of Electronic Filing.

/s/ David V. Harbach, II
David V. Harbach, II